IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.7110 OF 2006

Smt.Sulan S/o Bajirao Deokar. ... Petitioner
v/s.
1. The Chairman,
Kurdwadi Sikshan Prasarak
Mandal & ors. ... Respondents

Mr.V.D. Patnurkar with Mr.A.T.Gade for petitioner.
Mr.V.P.Malwankar, AGP for respondent Nos.3 to 5.

CORAM : H.L. GOKHALE, ACTING C.J. &
V.M. KANADE, J.

DATED : 13th February 2007

P.C. :

1. Heard the learned Counsel for the parties.

2. The petitioner herein joined a school run by the 1st respondent-Management sometimes in September 1982. At that time her qualifications were S.S.C., D.Ed. Later-on, i.e. in the year 1990 she completed her education upto B.A. B.Ed. Her grievance was that she was not being given the correct scale and, therefore, she filed a writ petition being Writ Petition No.5109 of 1998. That Petition came to be decided on 2nd of February 1999 by a Division Bench of this Court. The Division Bench noted that despite the fact that the petitioner was eligible to a Graduate scale, the Management had not released the same to her.

The Court further noted that the Education Officer had repeatedly instructed the Management for doing the needful. However, necessary steps were not being taken. The Court, therefore, directed the Education Officer to take appropriate steps against the Management in case it fails to comply with the directions issued in that behalf. The Petition was disposed of with that order.

3. It so transpired that the petitioner went on deputation to the District Education and Training Institute, Murud, District Latur sometimes in December 1998. In fact, when the aforesaid order was passed in the earlier Petition, she was already in that Institute. She continued over there until June 2005. The petitioner filed an Original Application in the Maharashtra Administrative Tribunal (for short, "the Tribunal") being O.A. No.535 of 2005 with a prayer that she should be continued in the said Training Institute. The Tribunal disposed of the same with a direction that she may represent and her representation may be considered. However, her representation has not been accepted. In any case, the petitioner has not received any response to her representation.

4. This being the position, the petitioner joined back to her parent Institution on 1st April 2006. She submitted an application for long leave on 3rd of April 2006 stating therein that she may be granted whatever is the balance leave in her credit. She subsequently gave an application on 15th September 2006 seeking voluntary retirement.

5. This Petition is filed with a prayer that the petitioner be permitted to voluntarily retire as per the Notice dated 15th September 2006. The petitioner, however seeks the Graduate scale which was being given to her when she was in the aforesaid Training Institute. It is material to note that while working in the school run by the 1st respondent-Management, the petitioner was initially given the D.Ed. scale. In this regard, it has been pointed out by Mr.Joshi, learned Counsel appearing for the 1st respondent-Management, that an application was taken from the petitioner when she was going on deputation stating therein that when she comes back, she should be ready to work on the lower scale which was given to her. The petitioner singed that document under the circumstances in which she was placed. However, having received the higher pay scale, subsequently she cannot be

placed on the lower pay scale when ultimately she has joined back and when she is seeking the voluntary retirement.

6. However, these are the aspects which will have to be decided by the appropriate officer. Counsel for all the parties agree that the Education Officer (Secondary) is the proper officer who will have to decide all these aspects. The petitioner's request is as follows:-

> (i) That her last drawn pay should be correctly fixed considering the fact that she had attained the qualifications to the Graduate scale and also considering the fact that she was, in fact, in that scale while teaching in the aforesaid Training Institute.
>
> (ii) That her service book will have to be prepared properly by the 1st respondent-Management.
>
> (iii) That her pension and other benefits will have to be calculated accordingly.
>
> (iv) That the arrears of her pay which are

not paid to her correctly and which fact is reflected in the order dated 2nd February 1999 of the High Court in the earlier Petition will have to be worked out properly.

7. The petitioner shall make an appropriate representation and forward it to the officer concerned. The 1st respondent-Management may file its reply to it. The Education Officer will call for all the necessary information from the 1st respondent-Management as well as from the District Education and Training Institute, Murud and decide all the aforesaid four aspects. We direct him to decide the same expeditiously and in any case, within six months from the date of passing of this order.

8. Petition stands disposed of with the above order.

(ACTING C.J.)

(V.M. KANADE, J.)